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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
08/810,679	02/28/1997	PAUL L. HICKMAN	ENVSP025BA	9229

7590 07/12/2004
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EXAMINER

DINH, DUNG C

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 07/12/2004

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 08/810,679
Filing Date: February 28, 1997
Appellant(s): HICKMAN ET AL.

Paul L. Hickman
For Appellant

MAILED

JUL 12 2004

Technology Center 2100

EXAMINER'S ANSWER

This is in response to the appeal brief filed 4/16/2004.

(1) *Real Party in Interest*

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A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

No amendment after final has been filed.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant's brief includes a statement that claims do not stand or fall together except for claims 1,21,23,24 (group 1); 25-27 (group 2); and 29-30 (group 3); and provides reasons as set forth in 37 CFR 1.192(c)(7) and (c)(8).

(8) *Claims Appealed*

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The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Prior Art of Record

4939509	Bartholomew et al.	7-1990
5909545	Frese et al.	6-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

I. Provisional double patenting.

Claims 1, 21-31 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 21-31 of copending Application No. 08/798,704. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims recite essentially equivalent limitations as follow:

Claim 25 of present application:	Claim 1 of 08/798,704:
providing a host computer ... running a host program	(line 9) a host computer coupled to said network and being accessible by said client computer ...
providing a client ... wherein input device of said client computers can be used to generate input to said host	(line 6) ... client program being capable of transmitting event ... including input device event

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computers ... (claim 30) ... wherein events are placed in the host computer's event queue.	(line 12) ... receiving said event data and placing said event data in an event queue of said host computer ...

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

II. 35 U.S.C. 103(a) rejections.

Claims 1, 21-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartholomew et al. US patent 4,939,509 and further in view of Frese et al. US patent 5,909,545.

As per claim 1, Bartholomew teaches a network accessible computer comprising:

a central processing unit and memory [apparent];

an interface coupling to a network [PBX];

wherein the central processing unit implements a host computer program [PC1] to operate as a network-accessible host computer for client computers [PC2] coupled to the network, wherein input devices of the client computers can be used to generate inputs to said host computer and such that image information generated by said host computer can be viewed by displays of the client computers [see abstract].

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Bartholomew teaches transmitting image (screen display) information changes to the client computer [col.5 lines 39-47].

Bartholomew does not specifically disclose the system operating on a TCP/IP network and transmitting a client program to the client computer to run in a browser at the client computer for communication with the host computer. In similar field of invention, Frese teaches a method for enabling remote control of application on a host computer by downloading a client program operating in conjunction with a browser onto the client computer. The system operates over the Internet (which is a TCP/IP network). The method eliminates the need to pre-installing client program on the client computer [Frese col.3 lines 42-47, col.9 lines 56-68]. Hence, it would have been obvious for one of ordinary skill in the art at the time of the invention to provide downloadable client program for remotely control the host computer because it would have improved the system by enabling a user to initiate the remote session from any client computer having browser and Internet connection.

As per claims 21-23, it is apparent that the system as modified can display the remote computer image in a browser as claimed and uses TCP/IP network.

As per claim 24, Frese specifically disclose the client program being a JAVA applet, hence it is apparent that the

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system as modified would have used JAVA applet. Furthermore, it would have been obvious for one of ordinary skill in the art to use JAVA applet to implement the client program because it would have enabled the client program to be cross platform compatible - a well-known benefit of JAVA.

As per claims 25-26, they are rejected under similar rationales as for claim 1 above.

As per claim 27, it is rejected under similar rationale as for claim 24 above. It is known in the art the JAVA applet is downloaded to the client viewing the Web page.

As per claim 28, it would have been obvious for one of ordinary skill in the art to use encryption to improve security of the communication over the Internet.

As per claim 29, it would have been obvious for one of ordinary skill in the art to transmit the image once per set time interval so as to control the screen update rate and prevent flooding the network.

As per claim 30, the recitation is apparent in the functioning of a host computer. It is apparent that the host computer must receive a request to connect and extract relevant parameters to initiate the remote control session.

As per claim 31, it is rejected under similar rationales for claims 29 and 30 above. It is apparent that in operating the

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system as modified, the client browser would establish a connection with the host, the host would download the client-program Java applet to the client computer. The applet would enable the client computer to send input device events to the host computer as if the user is operating at the host computer, the host would transmit appropriate updated screen information to the client for viewing. It is apparent that the system as modified sends client interests (client selection of the applications he want to use) and client computer events (input devices events) to the host. Frese does not specifically teach sending client resolution information to the host. However, it would have been obvious for one of ordinary skill in the art to do so because it would have enabled the host to configure the screen output accordingly.

(11) Response to Argument

Regarding the obviousness double patenting, applicant traversed the rejection because it compares a process claim to an apparatus claim. The argument is not persuasive because the claims cover essentially the same scope. Claim 1 of the co-pending application 08/798,704 is worded in form of an apparatus comprising various elements and associated functions. Claims 25 and 30 of the present application are worded in form of a method

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that provides the various elements with the associated functions. (See the mapping of the elements in the rejection above). It is apparent that in order to implement the apparatus, the various elements performing the stated functions must be provided. Hence, the claims are merely differ in forms and not substances. Therefore the provisional obviousness double patenting to application 08/798,704 is proper.

Regarding the art rejection of group 1, claims 1, 21, 23, 24, applicant argued that the present invention enable a user to take over virtually the entire functionality of the host computer, whereas Bartholomew and Frese do not. The argument is not persuasive because the features upon which applicant relies (i.e. take over virtually the entire functionality of the host computer) is not recited in the rejected claims. Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). The claims as present do not require taking over the entire functionality of the host computer. The claims merely require that the user input is send to the host and the screen output at the host is send to the client as if the client is operating at the host computer. This functionality is clearly provided for by Bartholomew and Frese.

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Regarding claim 22, the claim recites that the image information includes web page information. Applicant argued that this limitation means the user is viewing web page as displayed from a browser running on the host. The argument is not persuasive because 1) the limitation has a broader interpretation that read on the cited art and 2) the cited prior art apparently performs the limitation as argued.

1) Claim 22 recites that the "image information includes web page information." There is nothing in the claim language that requires or suggests that the 'web page information' be image from a browser running on the host as argued by applicant. On the contrary, the limitation can be interpreted to mean that the image information is transmitted with 'web page information' to the client. Since, Frese teaches using a browser to communicate with the host over the Internet. 'Web page' is often used generically in the art to refer to data communicated to a browser. Hence, any data received by the client in Frese that is used to enable display of the information on the browser can be interpreted to be 'web page information'. Since the image data received from the host is rendered in a browser at the client, the image data apparently has 'web page information' as claimed.

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2) Even if the claim is read to mean that the 'web page information' is image data from a web browser running on the host, Bartholomew and Frese apparently have this capability. Bartholomew enables a user on a remote computer to operate an application on the host computer that is selected for sharing. Bartholomew discloses that the application program can be any program [see col.3 line 38-32]. Hence, if the application selected is a browser, then image of whatever 'web page information' displayed on that browser would be sent to the remote user computer. Hence, the limitation would have clearly been obvious in view of the teachings of Bartholomew and Frese.

Regarding group 2, claims 25-27, applicant's argument is essentially similar to that of group 1 - Bartholomew and Frese do not teach take over virtually the entire functionality of the host computer. The argument is not persuasive because the claim language does not require such limitation.

Regarding claim 28, the obviousness of encrypting data transmit over the Internet is as stated in the rejection. It is well known in the art that the Internet is a public and unsecured network. The use of encryption for communication over the Internet is well known at the time of the invention. The

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specific applications disclosed by Bartholomew and Frese are merely preferred embodiments as contemplated by them. Whether Bartholomew and Frese would want to encrypt their data is not relevant. One of ordinary skill in the art in applying the teachings of Bartholomew and Frese would have motivated to encrypt the data when need to further secure the communication. The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference; nor is it that the claimed invention must be expressly suggested in any one or all of the references. Rather, the test is what the combined teachings of the references would have suggested to those of ordinary skill in the art. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981).

Regarding group 3, claims 29-30, although Bartholomew and Frese does not specifically disclose transmitting the screen information once a fixed period of time since the previous transmission. The obviousness of this limitation is as stated in the rejection. It is well known in the art at the time of the invention to conserve bandwidth when communicate over the Internet. Applicant argued that Bartholomew and Frese teach to update when there is a change at the host computer; hence teach

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away from transmitting update once a fixed period of time has transpired. The argument is not persuasive because the fixed period and transmit only when changes can be used together to limit the maximum update rate. That is for certain application, the screen can change rapidly (e.g. application that has motion or animates objects). It would have been obvious for one of ordinary skill in the art in this type of application to have a time period to limit the update rate so as to prevent flooding the network with update screen data.

Regarding claim 31, although the terms 'events', 'resolution' and 'client interests' are not in the cited references. Frese teaches sending the client interests (client selection of the applications he want to use) and client computer events (input devices events) to the host. Frese does not specifically teach sending client resolution information to the host. It would have been obvious for one of ordinary skill in the art to do so because it would have enabled the host to configure the screen output accordingly.

For the above reasons, it is believed that the rejections should be sustained.

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Respectfully submitted,



Dung Dinh
Primary Examiner
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